

BOARD OF APPEALS CASE NO. 4994

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BEFORE THE

APPLICANT: Harford County Sheriff's Office

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ZONING HEARING EXAMINER

REQUEST: Special Exception and
variance to locate an outdoor firearm
training facility in the AG District;
southside of Flintville Road, Darlington

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 11/24/99 & 12/1/99

HEARING DATE: January 19, 2000

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Record: 11/26/99 & 12/3/99

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ZONING HEARING EXAMINER'S DECISION

The Applicant is the Harford County Sheriff's Office. The Applicant is requesting a Special Exception to Section 267-53(A)(10) of the Harford County Code, for an outdoor firearms training facility and, if necessary, a variance to Section 267-53(A)(10)(b), to allow the discharge of firearms or release of arrows within the required 500 feet of any property line in an Agricultural District.

The subject property is owned by the Boy Scouts of America, and is located on the south side of Flintville Road, approximately 1,600 feet south of Susquehanna Hall Road, in the Fifth Election District. The parcels are identified as Parcel Nos. 19 and 156, in Grid 2-E, on Tax Map 12. The parcel contains 76.66 acres, more or less, all of which is zoned Agricultural.

Major Thomas Golding appeared and testified that he is the Chief Deputy of the Harford County Sheriff's Office. Major Golding said that the Sheriff's Office is requesting a Special Exception to construct an outdoor firearms training facility and is leasing 76 acres from the Boy Scouts of America for the facility. Major Golding said the lease will be for a 10 year period and that no shooting activities would take place between June 15 and August 31 of each year when the Boy Scouts are using the facility. Major Golding said that no ammunition will be stored on the site and that most of the activities will be during daylight, although on occasions there will be night activities as late as 10:00 p.m. which is mandated by training requirements.

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Mr. Al Davis appeared and testified that he is currently using a right-of-way to gain access to his property which abuts the parcel being leased by the Sheriff's Office. Mr. Davis inquired as to whether or not the firing activities would impact his use of the right-of-way, and he was advised by Major Golding that it would not.

Major Golding also testified the range will be constructed in a manner to eliminate danger to people and property from flying projectiles, that measures will be taken to minimize disturbance to the neighborhood, and that topographic features of the parcel will be used to enhance safety and minimize noise.

Mr. Anthony McClune, Manager, Division of Land Use Management for the Department of Planning and Zoning, appeared and testified that the subject parcel is one of several parcels owned by the Boy Scouts of America and is in excess of 76 acres. Mr. McClune said that the range will be less than 500 feet from a property line, but that the adjacent property is also a parcel owned by the Boy Scouts of America. He testified that the distance to any property line other than that owned by the Boy Scouts is greater than 500 feet and that the nearest residence from the edge of the firing range is over 600 feet across Flintville Road.

Mr. McClune said that the Staff has considered the application and feels that the Applicant can meet the requirements of Section 267-53(A)(10), and felt that the subject parcel was unique due to its size and the topographic conditions which exist on the parcel. Mr. McClune further testified that he felt that approval of a Special Exception for the firearms training facility would have less impact on the subject property than elsewhere in the Agricultural District due to the topography on the parcel and its remote location. Mr. McClune further testified that he did not feel approval of the variance would be substantially detrimental to adjacent properties or materially impair the purpose of the Code.

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CONCLUSION:

The Applicant is requesting a Special Exception to Section 267-53(A)(10) of the Harford County Code, for an outdoor firearms training facility and, if necessary, a variance to Section 267-53(A)(10)(b), to allow the discharge of firearms or release of arrows within 500 feet of a property line in an Agricultural District.

Section 267-53(A)(10) provides:

“Trap, skeet, rifle or archery ranges, outdoor. These uses may be granted in the AG, CI and GI Districts, provided that:

- (a) A minimum parcel area of seventy-five (75) acres shall be required for all rifle and pistol ranges. A minimum parcel area of twenty-five (25) acres shall be required for all trap, skeet and archery ranges.
- (b) Discharging of firearms or release of arrows shall not be permitted within five hundred (500) feet of any property line.
- (c) Such range is constructed in such a manner as to eliminate danger to persons or property from flying projectiles.
- (d) The manner and times of operation shall be such that there will be no resulting detrimental disturbances to residential neighborhoods.
- (e) The facilities shall be designed so that the topographic features of the parcel are used to enhance safety and minimize firearm noise.

The testimony of Major Golding and Mr. McClune indicates that the Applicant will comply with the above conditions, except for subsection (b) above, which requires a 500 foot setback from any property line. The Applicant has requested a variance to that requirement.

The Court of Appeals set the standard for special exceptions and said:

“Thus, these cases establish that the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.” Schultz v. Pritts, 291 Md. 1 (1991).

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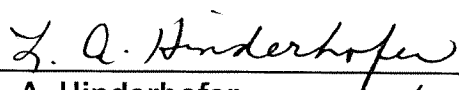
The Applicant is also requesting a variance to the required 500 foot setback set forth in Section 267-53(A)(10)(b). The uncontradicted testimony of Major Golding and Mr. McClune was that the subject property is unique for the reasons set forth in their testimony and, further, that approval of the variance on the subject property will not have any greater impact if located on the subject property than elsewhere in the zoning district. Both Major Golding and Mr. McClune felt that the impact would be less due to the topography of the parcel and its remote location.

No testimony was introduced that approval of the variance would impact the "Limitations, Guides and Standards" set forth in Section 267-9(l).

Therefore, it is the recommendation of the Hearing Examiner that the Special Exception and variance to reduce the required 500 foot setback be approved, subject to the following conditions:

1. That the Applicant submit detailed site plans to be reviewed and approved by the Planning Department through the Development Advisory Committee.
2. That the Applicant obtain all necessary permits and inspections for the construction of the facility.

Date MARCH 27, 2000



L. A. Hinderhofer
Zoning Hearing Examiner